

## **Honorable Ricardo S. Martinez**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

## CHRISTIE BOWERS,

**Plaintiff,**

**VS.**

**ROBIN KLETKE and ROBIN COHEN,  
husband and wife and the marital  
community composed thereof,**

## Defendants.

NO. C08-1768RSM

**DECLARATION OF MARK  
WALTERS IN SUPPORT OF  
PLAINTIFF'S MOTION FOR LEAVE TO  
FILE FIRST AMENDED COMPLAINT**

**NOTED ON MOTION DOCKET:  
MAY 28, 2010**

I, Mark Walters, declare as follows:

1. I am of legal age and sound mind and I am competent to make this declaration.

2. I represent the Plaintiff, Christie Bowers, in this action. I submit this declaration in Support of Plaintiff's Motion for Leave to File First Amended Complaint.

3. I wrote Plaintiff's Motion for Leave to File First Amended Complaint. In an effort to avoid burdening the Court with the same recitation of facts in Plaintiff's Motion for Leave to File First Amended Complaint, and in an effort to preserve limited judicial resources, I hereby fully incorporate by this reference all sentences in the Plaintiff's Motion for Leave to File First Amended Complaint with the following citation

1 "Walters Decl. ¶ 3" as though fully stated in this Declaration. I make these  
2 statements based on my personal knowledge or belief. Attached to this declaration,  
3 marked with the exhibit numbers below are true and correct copies of the following  
4 documents:

5 **Exhibit 1** The original complaint

6 **Exhibit 2** A track changes version of the Proposed First Amended Complaint

7 **Exhibit 3** A clean version of Proposed First Amended Complaint

9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED this 13<sup>TH</sup> day of May, 2010 in Seattle, Washington.

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17 Mark Walters

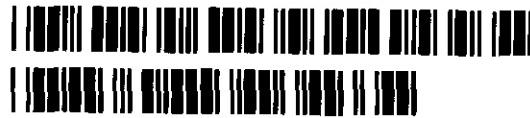
# **Exhibit 1**

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08-CV-01768-CMP

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
WASHINGTON AT SEATTLE

CHRISTIE BOWERS ,

Plaintiff,

vs.

ROBIN KLETKE and ROBIN COHEN, husband  
and wife and the marital community composed  
thereof,

Defendant(s).

NO. C 08-1768 RSM

COMPLAINT FOR  
VIOLATION OF  
ELECTRONIC  
COMMUNICATION PRIVACY  
ACT; WASHINGTON  
COMMUNICATIONS  
INTERCEPTION VIOLATION  
AND RIGHT OF PRIVACY

COMES NOW Plaintiff, by and through her attorney of record, Law  
Office of Greg Cavagnaro, and for her Complaint against the named defendants  
herein allege, asserts and claim as follow:

I. PARTIES

- 1.1 Plaintiff is a resident of Pierce County Washington.  
1.2 Defendants Robin Kletke and Robin Cohen are husband and wife, and all actions  
or omissions alleged herein were committed on behalf of each defendant  
individually and on behalf of the marital community. Defendants are residents of  
King County, Washington.

EXHIBIT 1

1  
2                   **II. JURISDICTION AND VENUE**

- 3       2.1. Plaintiff incorporates herein by reference all previous paragraphs.  
4       2.2. This Court has jurisdiction and venue is proper because the defendants reside in  
5           King County, Washington and such claims asserted arise out of actions and  
6           conduct that occurred in King County, Washington.  
7       2.3. The action arises in part under the Electronic Consumer Privacy Act - 18 U.S.C.  
8           Chapter 119 as hereinafter more fully appears.

9                   **III. FACTS**

- 10      3.1 Plaintiff incorporates herein by reference all previous paragraphs.  
11      3.2 Plaintiff formerly showed purebred dogs and participated and assisted in the  
12           organization and related functions regarding purebred dog agility trials in Washington  
13           State, among other places. On or about 2001 Plaintiff became acquainted with defendant  
14           Robin Kletke and Robin Cohen in connection with various dog agility competitions.  
15           Their relationship lead to Mr. Kletke and Ms. Cohen working for Ms. Bowers at agility  
16           trials.  
17      3.3 Defendant Robin Kletke is a graduate of the University of Washington and has a  
18           B.S. in Applied Mathematics. For the last 20 years, he has developed extensive  
19           experience in software development and hardware/software design, prototype, debugging  
20           and integration. Most recently, he has been heavily involved in major software system  
21           architecture and hardware development. In 1997, defendant Kletke founded Superior  
22           Software, Inc. (hereinafter "SSI") to coordinate consulting and custom software  
23           operations for multiple clients. Among the clients defendant Kletke and/or SSI have  
24           performed services for are the following: Lawrence Livermore National Lab; Boeing  
25           Aerospace; Physics Dept., Kansas State University; SonoSite Inc.; and Microsoft  
26           Corporation.  
27      3.4 At all times material hereto, plaintiff maintained a private web-based email  
28           account with United Online, doing business as Juno.com (hereinafter "Juno").

1  
2       3.5   On occasion, plaintiff and the defendants would send emails to each other  
3 concerning matters relating to various dog agility trials.

4       3.6   On or about September of 2007, plaintiff was advised that defendants had been  
5 secretly obtaining access to plaintiff's personal emails and email account without her  
knowledge.

6       3.7   Sometime afterwards, plaintiff contacted the Custodians of Records at Juno to  
7 determine if the defendants had in fact intercepted plaintiff's personal emails and obtained  
8 access to her email account with Juno. The Custodian of Records at Juno produced  
9 plaintiff's email account records from March 26 to November 26, 2007. During the  
10 aforementioned 6 month period, Juno records confirmed that the defendants  
11 surreptitiously obtained access to plaintiff's personal emails and email account, and had  
12 intercepted and viewed 139 emails without plaintiffs' knowledge.

13       3.8   On January 24, 2008 attorney Jeffrey Foster, counsel for plaintiff, wrote a letter to  
14 Mr. Scott Sanbeg at Sonosite Incorporated and advised Mr. Sanbeg that Juno had  
15 produced records indicating that "one or more individuals" had illegally accessed  
16 plaintiff's personal email account from an Internet Protocol ("IP") address associated with  
17 Sonosite servers on no less than forty three (43) separate occasions. Mr. Foster urged  
18 Sonosite to conduct an investigation to determine the identity of the individual  
19 "responsible for this illegal hacking activity".

20       3.9   After conducting an independent investigation, Kathryn Surace-Smith, Vice  
21 President and General Counsel of SonoSite confirmed in a February 25, 2008  
22 correspondence to Mr. Foster that defendant Robin Kletke accessed plaintiffs email  
23 account from the company's servers on several occasions. In her letter, Ms. Surace-Smith  
24 stated that defendant Kletke's actions were outside the scope of engagement with Sono  
25 Site and that the company had taken steps to ensure that Mr. Kletke no longer has internet  
26 access while performing services for SonoSite.

27       3.10   On or about February of 2008, plaintiff filed an action against defendant Kletke

1  
2 and Cohen in Pierce County District Court under Cause Number 84613439A seeking to  
3 stop defendants from intercepting and viewing her personal emails and email account by  
4 obtaining an Order For Protection From Unlawful Civil Harassment. After a February 19,  
5 2008 hearing at which defendant Kletke and his legal counsel attended, an Order for  
6 Protection was entered prohibiting defendant Kletke and defendant Cohen from  
7 intercepting, obtaining access, or viewing plaintiff's emails or email account.

8 3.11 Defendants unauthorized actions of accessing plaintiff's email account and  
9 viewing private emails have allowed the defendants to gain access to plaintiff's most  
10 sensitive financial, business and personal information. Such information includes but not  
limited to the following:

- 11 • Credit card numbers utilized for online purchases (Ebay, Amazon, Airlines )
- 12 • Merchant credit card statements (Best Buy, JoAnns, BillMeLater)
- 13 • Bank Statements
- 14 • Credit Report(s)
- 15 • Business Contracts
- 16 • Judging evaluation reports by AKC Field Reps
- 17 • Client Invoices
- 18 • Business opportunities
- 19 • Attorney-client communications
- 20 • Medical records and billing
- 21 • Personal communications with family and friends

22 **IV. FIRST CAUSE OF ACTION – VIOLATION OF ELECTRONIC  
23 COMMUNICATIONS PRIVACY ACT – 18 U.S.C. Chapter 119**

24 4.1 Plaintiff hereby incorporates herein all of the allegations set out above.  
25 4.2 Defendants intentional and repeated unauthorized access to plaintiffs personal  
email(s) and email account over an extended period of time constitutes the unlawful  
interception and use of plaintiffs private electronic communication in violation of 18

1  
2 U.S.C. Chapter 119.

3 4.3. Based on information and belief, defendants have disclosed the contents of plaintiff's  
4 private email communications to third persons in violation of 18 U.S.C. § 2520. Plaintiff  
5 has been damaged in an amount to be determined at trial.  
6

**V. SECOND CAUSE OF ACTION - WASHINGTON COMMUNICATIONS  
INTERCEPTION VIOLATION – RCW 9.73.030**

7 5.1 Plaintiffs hereby incorporates herein all of the allegations set out above.  
8 5.2 Defendants intentional and repeated unauthorized access to plaintiffs email(s) and  
9 email account over an extended period of time constitutes the unlawful interception and  
10 use of plaintiff's private electronic communication in violation of RCW 9.73.030.  
11 Plaintiff has been damaged in an amount to be determined at trial.  
12

**VI. THIRD CAUSE OF ACTION – VIOLATION OF RIGHT OF PRIVACY**

13 6.1 Plaintiffs hereby incorporates herein all of the allegations set out above.  
14 6.2 Based on information and belief, defendants have disclosed the contents of  
15 plaintiff's private email communications to third persons for the purpose of injuring the  
16 business and personal interests of plaintiff as well as her reputation. The aforementioned  
17 actions and omissions of the defendants constitute a violation of plaintiff's right of  
18 privacy. Plaintiff is entitled to damages in an amount to be determined at trial.  
19  
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21

**VII. REQUESTS FOR RELIEF**

22 WHEREFORE, Plaintiff prays for Judgment as follows:  
23

24 A. That a permanent Injunction be entered to enjoin the Defendants from (a) engaging in  
25 any activities which result in the defendants obtaining access to plaintiff's email account;  
26 (b) engaging in any activities which result in the defendants obtaining access to plaintiff's

1  
2 personal emails; and (c) preventing the defendants from divulging the contents or  
3 substance of plaintiffs personal emails including but not limited to information listed in  
4 paragraph 3.11 above.

5 B. That an Order awarding money damages, including punitive damages as may be  
6 authorized by statute.

7 C. That an award of reasonable attorney's and costs be entered against the defendants  
8 pursuant to the provisions of 18 U.S.C. § 2520 and RCW 9.73.060.

9 D. For such other and further relief as the court may permitted by law or which the Court  
10 deems equitable, appropriate or just.

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13 DATED at Bellevue, Washington, this 5/11 day of December 2008.  
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17 Law Offices of Gregory Cavagnaro  
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Gregory Cavagnaro, WSBA # 17644  
Attorney for Plaintiff

# **Exhibit 2**

1 Honorable Ricardo S. Martinez  
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10 UNITED STATES DISTRICT COURT  
 11 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

12 CHRISTIE BOWERS,

13 NO. C08-1768RSM

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14 Plaintiff,

15 FIRST AMENDED COMPLAINT

16 vs.

17 ROBIN KLETKE and ROBIN COHEN,  
 18 husband and wife and the marital  
 community composed thereof,

19 Defendants.

20 COMES NOW Plaintiff, by and through her attorney of record, Mark Walters of the  
 21 WALTERS LAW FIRM PLLC, and for her First Amended Complaint against the named  
 22 defendants herein alleges, asserts and claims as follows:

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23 I. PARTIES

24 1.1 Plaintiff is a resident of Pierce County, Washington.

25 1.2 Defendants Robin Kletke and Robin Cohen are husband and wife, and all actions or  
 26 omissions alleged herein were committed on behalf of each defendant individually and on  
 behalf of the marital community. Defendants are residents of King County, Washington.

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FIRST AMENDED COMPLAINT  
 PAGE 1 OF 7

WALTERS LAW FIRM PLLC  
 1411 Fourth Avenue | Suite 75  
 Seattle | WA | 98101  
 206.254.0444

## II. JURISDICTION AND VENUE

**2.1.** Plaintiff incorporates herein by reference all previous paragraphs.

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**2.2** This Court has jurisdiction and venue is proper because the defendants reside in King County, Washington and such claims asserted arise out of actions and conduct that occurred in King County, Washington.

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**2.3** The action arises in part under Title I and Title II of the Electronic Communications Privacy Act, 18 U.S.C. § 2510 et seq.

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Chapter 119 as hereinafter more fully appears

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## III. FACTS

**3.1** Plaintiff incorporates herein by reference all previous paragraphs.

**3.2** Plaintiff formerly showed purebred dogs and participated and assisted in the organization and related functions regarding purebred dog agility trials in Washington State, among other places. On or about 2001, Plaintiff became acquainted with defendants Robin Kletke and Robin Cohen in connection with various dog agility competitions. Their relationship led to Mr. Kletke and Ms. Cohen working for Ms. Bowers at agility trials.

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**3.3** Defendant Robin Kletke is a graduate of the University of Washington and has a B.S. in Applied Mathematics. For the last 20 years, he has developed extensive experience in software development and hardware/software design, prototype, debugging and integration. Most recently, he has been heavily involved in major software system architecture and hardware development. In 1997, defendant Kletke founded Superior Software, Inc. (hereinafter "SSI") to coordinate consulting and custom software 21 operations for multiple clients. Among the clients defendant Kletke and/or SSI have performed services for are the following: Lawrence Livermore National Lab; Boeing

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1 Aerospace; Physics Dept., Kansas State University; Sonosite Inc.; and Microsoft  
 2 Corporation.

3.4 At all times material hereto, Plaintiff maintained a private web-based email account  
 4 with United Online, doing business as Juno.com (hereinafter "Juno").

5.5 On occasion, Plaintiff and the defendants would send emails to each other  
 6 concerning matters relating to various dog agility trials.

7.6 On or about September of 2007, Plaintiff was advised that defendants had been  
 8 secretly obtaining access to Plaintiff's personal emails and email account without her  
 9 knowledge.

11.7 Sometime afterwards, Plaintiff contacted the Custodians of Records at Juno to  
 12 determine if the defendants had in fact intercepted Plaintiff's personal emails and obtained  
 13 access to her email account with Juno. The Custodian of Records at Juno produced  
 14 Plaintiff's email account records from March 26, 2007 to November 26, 2007. During the  
 15 aforementioned 6 month period, Juno records confirmed that the defendants surreptitiously  
 16 obtained access to Plaintiff's personal emails and email account on 139 occasions without  
 17 Plaintiff's knowledge or authorization, and upon information and belief, intercepted, used  
 18 and disclosed the contents of Plaintiff's electronic communications.

20.8 On January 24, 2008, attorney Jeffrey Foster, counsel for Plaintiff, wrote a letter to  
 21 Mr. Scott Sanbeg at Sonosite Incorporated and advised Mr. Sanbeg that Juno had  
 22 produced records indicating that "one or more individuals" had illegally accessed Plaintiff's  
 23 personal email account from an Internet Protocol ("IP") address associated with Sonosite  
 24 servers on not less than forty three (43) separate occasions. Mr. Foster urged Sonosite to  
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FIRST AMENDED COMPLAINT  
PAGE 3 OF 7

WALTERS LAW FIRM PLLC  
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Seattle | WA | 98101  
206.254.0444

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1 conduct an investigation to determine the identity of the individual "responsible for this  
 2 illegal hacking activity".

3 **3.9** After conducting an independent investigation, Kathryn Surace-Smith, Vice President  
 4 and General Counsel of Sonosite, confirmed in a February 25, 2008 correspondence to Mr.  
 5 Foster that defendant Robin Kletke accessed Plaintiff's email account from the company's  
 6 servers on several occasions. In her letter, Ms. Surace-Smith stated that defendant Kletke's  
 7 actions were outside the scope of engagement with Sonosite and that the company had  
 8 taken steps to ensure that Mr. Kletke no longer has internet access while performing  
 9 services for Sonosite.

10 **3.10** On or about February of 2008, Plaintiff filed an action against defendants Kletke and  
 11 Cohen in Pierce County District Court under Cause Number 84613439A seeking to stop  
 12 the defendants from intercepting and viewing her personal emails and email account by  
 13 obtaining an Order For Protection From Unlawful Civil Harassment. After a February 19,  
 14 2008 hearing at which defendant Kletke and his legal counsel attended, an Order for  
 15 Protection was entered, prohibiting defendant Kletke and defendant Cohen from  
 16 intercepting, obtaining access, or viewing Plaintiff's emails or email account.

17 **3.11** Defendants' unauthorized actions of accessing Plaintiff's email account and viewing  
 18 private emails have allowed the defendants to gain access to Plaintiff's most sensitive  
 19 financial, business and personal information. Such information includes but is not limited to  
 20 the following:

- 21     ▪ Credit card numbers utilized for online purchases (Ebay, Amazon, airlines )
- 22     ▪ Merchant credit card statements (Best Buy, JoAnns, BillMeLater)
- 23     ▪ Bank Statements

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- 1     ▪ Credit Report(s)
- 2     ▪ Business Contracts
- 3     ▪ Judging evaluation reports by AKC Field Reps
- 4     ▪ Client Invoices
- 5     ▪ Business opportunities
- 6     ▪ Attorney-client communications
- 7     ▪ Medical records and billing
- 8     ▪ Personal communications with family and friends

#### IV. FIRST CAUSE OF ACTION

##### Violations of the Electronic Communications Privacy Act, 18 U.S.C. § 2510 et seq.

4.1 Plaintiff hereby incorporates herein all of the allegations set out above.

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4.2 Defendants' intentional and repeated unauthorized access to Plaintiff's personal email(s) and email account over an extended period of time constitutes the unlawful access, interception and use of Plaintiff's private electronic communications in violation of Title I and Title II of the Electronic Communications Privacy Act, commonly known as the Wiretap Act and the Stored Communications Act, entitling Plaintiff to an award of statutory damages, punitive damages and attorneys' fees and costs of suit.

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4.3 Based on information and belief, defendants have used and disclosed the contents of Plaintiff's private email communications to third persons in violation of Title I and Title II of the Electronic Communications Privacy Act entitling Plaintiff to an award of statutory damages, punitive damages and attorneys' fees and costs of suit. Plaintiff has been damaged in an amount to be determined at trial.

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**V. SECOND CAUSE OF ACTION**

**Violation of the Washington State Privacy Act, RCW 9.73.030**

4  
5.1 Plaintiff hereby incorporates herein all of the allegations set out above.  
5.2 Defendants' intentional, willful and repeated unauthorized access to Plaintiff's  
6 email(s) and email account over an extended period of time without consent constitutes the  
7 unlawful recording, interception and use of Plaintiff's private electronic communication in  
8 violation of RCW 9.73.030, entitling Plaintiff to an award of actual damages, including  
9 mental pain and suffering, or statutory liquidated damages at the rate of \$100 per day not  
10 to exceed \$1,000 and attorney's fees and costs of litigation pursuant to RCW 9.73.060.

11 Plaintiff has been damaged in an amount to be determined at trial.

13  
14  
**VI. THIRD CAUSE OF ACTION**

15  
**Violation of the Right of Privacy**

16.1 Plaintiff hereby incorporates herein all of the allegations set out above.  
16.2 Based on information and belief, defendants have disclosed the contents of Plaintiff's  
18 private email communications to third persons for the purpose of injuring the business and  
19 personal interests of Plaintiff, as well as her reputation. The aforementioned actions and  
20 omissions of the defendants constitute a violation of Plaintiff's right of privacy. Plaintiff is  
21 entitled to damages in an amount to be determined at trial.

23  
**VII. REQUESTS FOR RELIEF**

24 WHEREFORE, Plaintiff prays for Judgment as follows:

25 A. That a permanent Injunction be entered to enjoin the defendants from (a) engaging in  
26 any activities which result in the defendants obtaining access to Plaintiff's email account;

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COMMUNICATIONS  
INTERCEPTION VIOLATION¶

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VIOLATION OF RIGHT OF  
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1 (b) engaging in any activities which result in the defendants obtaining access to Plaintiff's  
 2 personal emails; and (c) preventing the defendants from divulging the contents or  
 3 substance of Plaintiff's personal emails, including but not limited to information listed in  
 4 paragraph 3.11 above.

5 **B.** That an Order be entered awarding statutory damages, including liquidated and  
 6 punitive damages as may be awarded pursuant to the provisions Title I and Title II of the  
 7 Electronic Communications Privacy Act, see 18 U.S.C. § 2520, 18 U.S.C. § 2707 and the  
 8 Privacy Act, RCW 9.73.060.

9 **C.** That an award of reasonable attorney's and costs be entered against the defendants  
 10 pursuant to the provisions of Title I and Title II of the Electronic Communications Privacy  
 11 Act, see 18 U.S.C. § 2520, 18 U.S.C. § 2707 and the Privacy Act, RCW 9.73.060.

12 **D** For such other and further relief as permitted by law or which the Court deems  
 13 equitable, appropriate or just.

14  
 15 Dated this \_\_\_\_\_ day of May 2010.  
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18 WALTERS LAW FIRM PLLC

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 21 Mark Walters, WSBA 25537  
 22 Attorney for Plaintiff, Christie Bowers

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 FIRST AMENDED COMPLAINT  
 PAGE 7 OF 7

WALTERS LAW FIRM PLLC  
 1411 Fourth Avenue | Suite 75  
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# **Exhibit 3**

1 Honorable Ricardo S. Martinez  
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10 UNITED STATES DISTRICT COURT  
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13 Plaintiff,  
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**2.3** The action arises in part under Title I and Title II of the Electronic Communications Privacy Act, 18 U.S.C. § 2510 *et seq.*

### III. FACTS

**3.1** Plaintiff incorporates herein by reference all previous paragraphs.

**3.2** Plaintiff formerly showed purebred dogs and participated and assisted in the organization and related functions regarding purebred dog agility trials in Washington State, among other places. On or about 2001, Plaintiff became acquainted with defendants Robin Kletke and Robin Cohen in connection with various dog agility competitions. Their relationship led to Mr. Kletke and Ms. Cohen working for Ms. Bowers at agility trials.

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 12 the defendants from intercepting and viewing her personal emails and email account by  
 13 obtaining an Order For Protection From Unlawful Civil Harassment. After a February 19,  
 14 2008 hearing at which defendant Kletke and his legal counsel attended, an Order for  
 15 Protection was entered, prohibiting defendant Kletke and defendant Cohen from  
 16 intercepting, obtaining access, or viewing Plaintiff's emails or email account.

17 **3.11** Defendants' unauthorized actions of accessing Plaintiff's email account and viewing  
 18 private emails have allowed the defendants to gain access to Plaintiff's most sensitive  
 19 financial, business and personal information. Such information includes but is not limited to  
 20 the following:

- 21     ▪ Credit card numbers utilized for online purchases (Ebay, Amazon, airlines )
- 22     ▪ Merchant credit card statements (Best Buy, JoAnns, BillMeLater)
- 23     ▪ Bank Statements

- 1     ▪ Credit Report(s)
- 2     ▪ Business Contracts
- 3     ▪ Judging evaluation reports by AKC Field Reps
- 4     ▪ Client Invoices
- 5     ▪ Business opportunities
- 6     ▪ Attorney-client communications
- 7     ▪ Medical records and billing
- 8     ▪ Personal communications with family and friends

#### 10                          **IV. FIRST CAUSE OF ACTION**

##### 11                          **Violations of the Electronic Communications Privacy Act, 18 U.S.C. § 2510 et seq.**

12                  **4.1** Plaintiff hereby incorporates herein all of the allegations set out above.

13                  **4.2** Defendants' intentional and repealed unauthorized access to Plaintiff's personal  
 14 email(s) and email account over an extended period of time constitutes the unlawful  
 15 access, interception and use of Plaintiff's private electronic communications in violation of  
 16 Title I and Title II of the Electronic Communications Privacy Act, commonly known as the  
 17 Wiretap Act and the Stored Communications Act, entitling Plaintiff to an award of statutory  
 18 damages, punitive damages and attorneys' fees and costs of suit.

19                  **4.3** Based on information and belief, defendants have used and disclosed the contents of  
 20 Plaintiff's private email communications to third persons in violation of Title I and Title II of  
 21 the Electronic Communications Privacy Act entitling Plaintiff to an award of statutory  
 22 damages, punitive damages and attorneys' fees and costs of suit. Plaintiff has been  
 23 damaged in an amount to be determined al trial.

## **V. SECOND CAUSE OF ACTION**

## **Violation of the Washington State Privacy Act, RCW 9.73.030**

**5.1** Plaintiff hereby incorporates herein all of the allegations set out above.

**5.2** Defendants' intentional, willful and repeated unauthorized access to Plaintiff's email(s) and email account over an extended period of time without consent constitutes the unlawful recording, interception and use of Plaintiff's private electronic communication in violation of RCW 9.73.030, entitling Plaintiff to an award of actual damages, including mental pain and suffering, or statutory liquidated damages at the rate of \$100 per day not to exceed \$1,000 and attorney's fees and costs of litigation pursuant to RCW 9.73.060. Plaintiff has been damaged in an amount to be determined at trial.

## **VI. THIRD CAUSE OF ACTION**

### **Violation of the Right of Privacy**

**6.1** Plaintiff hereby incorporates herein all of the allegations set out above.

**6.2** Based on information and belief, defendants have disclosed the contents of Plaintiff's private email communications to third persons for the purpose of injuring the business and personal interests of Plaintiff, as well as her reputation. The aforementioned actions and omissions of the defendants constitute a violation of Plaintiff's right of privacy. Plaintiff is entitled to damages in an amount to be determined at trial.

## **VII. REQUESTS FOR RELIEF**

WHEREFORE, Plaintiff prays for Judgment as follows:

**A.** That a permanent Injunction be entered to enjoin the defendants from (a) engaging in any activities which result in the defendants obtaining access to Plaintiff's email account;

1 (b) engaging in any activities which result in the defendants obtaining access to Plaintiff's  
2 personal emails; and (c) preventing the defendants from divulging the contents or  
3 substance of Plaintiff's personal emails, including but not limited to information listed in  
4 paragraph 3.11 above.

5 **B.** That an Order be entered awarding statutory damages, including liquidated and  
6 punitive damages as may be awarded pursuant to the provisions Title I and Title II of the  
7 Electronic Communications Privacy Act, see 18 U.S.C. § 2520, 18 U.S.C. § 2707 and the  
8 Privacy Act, RCW 9.73.060.

9 **C.** That an award of reasonable attorney's and costs be entered against the defendants  
10 pursuant to the provisions of Title I and Title II of the Electronic Communications Privacy  
11 Act, see 18 U.S.C. § 2520, 18 U.S.C. § 2707 and the Privacy Act, RCW 9.73.060.

12 **D** For such other and further relief as permitted by law or which the Court deems  
13 equitable, appropriate or just.

16 Dated this \_\_\_\_\_ day of May 2010.

18 WALTERS LAW FIRM PLLC

21 \_\_\_\_\_  
22 Mark Walters, WSBA 25537  
23 Attorney for Plaintiff, Christie Bowers